



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/518,950

06/29/2005

Barry Peter Liversidge

1926-00102

5292

26753

7590

11/28/2008

ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

EXAMINER

GILBERT, ANDREW M

ART UNIT

PAPER NUMBER

3767

MAIL DATE

DELIVERY MODE

11/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/518,950	Applicant(s) LIVERSIDGE, BARRY PETER	
	Examiner ANDREW M. GILBERT	Art Unit 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 32-36 is/are rejected.
- 7) ☒ Claim(s) 30 and 31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/27/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 7/27/2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-8, 16-29, 32-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Pearson et al (5658259). Pearson et al discloses a safety arrangement for a medical needle having a mount end (Fig 6) and a sharp tip, which arrangement comprises: a support (43) adapted directly or indirectly to carry the mount end of a needle (34) so that the needle projects forwardly away therefrom; a sleeve (40) mounted directly or indirectly on the support and being

Art Unit: 3767

slideable with respect thereto from an initial position where the sleeve covers at least the greater part of a carried needle to a retracted position where the tip of a carried needle and a part of the needle back from its tip is exposed, and then to a protecting position where the sleeve covers the needle tip and at least part of the needle back from its tip (Figs 2-4); resilient means (42) arranged to urge the sleeve towards its protecting position; a blocking member (110) at least a part of which projects forwardly from the support, the blocking member being movable between a non-blocking position where the blocking member extends generally parallel to the needle axis and the sleeve may slide to its retracted position and a blocking position where the blocking member has moved from its non-blocking position so as to be disposed between the support and a part of the sleeve, thereby blocking movement of the sleeve away from its protecting position (Fig 4); and control means (120) which releases the blocking member for movement from its non- blocking position to its blocking position on movement of the sleeve away from its initial position towards its retracted position, so that on subsequent movement of the sleeve to its protecting position the blocking member will thereafter block movement of the sleeve away from its protecting position (Figs 2-4); wherein the blocking member when in its blocking position extends at an acute angle (114 on 110 vs. the needle axis 34; Fig 4) to the needle axis; wherein the blocking member is tubular and when in its non-blocking position is generally co-axial with the sleeve and needle (Figs 2-4); wherein one end of the blocking member when in its blocking position co-operates with a wall portion of one of the support and the sleeve to apply a turning moment to the blocking

Art Unit: 3767

member about an axis transverse to the length of the sleeve, so moving the second end of the blocking member to block retracting movement of the sleeve (110, 114, 120; Figs 2-4); wherein one end of the blocking member has an off-set boss (114) presenting a non radial face projecting towards said adjacent wall portion of said one of the support and the sleeve, whereby on the one end of blocking member being urged towards said adjacent wall portion, the off-set projection applies said turning moment to the blocking member (114 on 120; Figs 4); designed to hold a cartridge (36); having releasable connections (112 and 120, and 108 and 98; Figs 2-4); and helical coil resilient means (42).

5. Claims 1-8, 16-25, 28, 32-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Heiniger (6773415). Heiniger discloses a safety arrangement for a medical needle having a mount end (Fig 1-4) and a sharp tip, which arrangement comprises: a support (3) adapted directly or indirectly to carry the mount end of a needle (Figs 1-4) so that the needle projects forwardly away therefrom; a sleeve (1) mounted directly or indirectly on the support and being slideable with respect thereto from an initial position where the sleeve covers at least the greater part of a carried needle to a retracted position where the tip of a carried needle and a part of the needle back from its tip is exposed, and then to a protecting position where the sleeve covers the needle tip and at least part of the needle back from its tip (Figs 1-4); resilient means (4) arranged to urge the sleeve towards its protecting position; a blocking member (2) at least a part of which projects forwardly from the support, the blocking member being movable between a non-

Art Unit: 3767

blocking position where the blocking member extends generally parallel to the needle axis and the sleeve may slide to its retracted position and a blocking position where the blocking member has moved from its non-blocking position so as to be disposed between the support and a part of the sleeve, thereby blocking movement of the sleeve away from its protecting position (Figs 1-4); and control means (12) which releases the blocking member for movement from its non-blocking position to its blocking position on movement of the sleeve away from its initial position towards its retracted position, so that on subsequent movement of the sleeve to its protecting position the blocking member will thereafter block movement of the sleeve away from its protecting position (8, g; Figs 1-4); wherein the blocking member when in its blocking position extends at an acute angle (8, Figs 1, 3) to the needle axis; wherein the blocking member is tubular and when in its non-blocking position is generally co-axial with the sleeve and needle (2; Figs 1-4); wherein one end of the blocking member when in its blocking position co-operates with a wall portion of one of the support and the sleeve to apply a turning moment to the blocking member about an axis transverse to the length of the sleeve, so moving the second end of the blocking member to block retracting movement of the sleeve (8, g, and 2, 10; Figs 1-4); wherein one end of the blocking member has an off-set boss (8; Fig 1, 3) presenting a non radial face projecting towards said adjacent wall portion of said one of the support and the sleeve, whereby on the one end of blocking member being urged towards said adjacent wall portion, the off-set projection applies said turning moment to the blocking member (8 on g; Fig 1, 3); designed to hold a

Art Unit: 3767

cartridge (5); having releasable connections (2 and 12 and g and 8); and helical coil resilient means (4).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pearson et al or Heiniger in view of Sudnak (4894055). Pearson et al or Heiniger discloses the invention substantially as claimed except for expressly disclosing the support attaching to a hypodermic syringe. Sudnak teaches that it is known to have the support attaching to a hypodermic syringe (Fig 1-2) for the purpose of preventing accidental skin punctures for hypodermic needles. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the syringe cartridge as taught by Pearson et al or Heiniger with the hypodermic syringe as taught by Sudnak for the purpose of preventing accidental skin punctures for hypodermic needles.

Allowable Subject Matter

8. Claims 30-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW M. GILBERT whose telephone number is (571)272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew M Gilbert/
Examiner, Art Unit 3767
/Kevin C. Sirmons/
Supervisory Patent Examiner, Art Unit 3767